

ZB# 92-49

Stockdale / Stewart's

65-2-42

Prelim.

Jan. 11, 1993

Applicant has
Aps.

Need:

- (1) Proxy letter ^{it} here
- (2) Photos ^{it} here
- (3) Lease ^{or} it here
- (4) ~~Deed~~
- (5) ~~Attch.~~
- (6) Title Policy ^{None.}

No OCPD.

② 2 Checks

- ① 150.00 ✓ Pd
- ② 250.00 ✓ Pd.

Ordered list - 4/9/93.

Postage 18.56

Notice to sent ⁹ 1/19/93

February 8, 1993

MADE IN
HAWAII

NO. 753 1/3

ESSELTE

Oxford®

Sign variance
Approved.

#92-49. - Stock date / Stewart's

F.D.
Add. Fees due: \$184.06 paid
d# 123025

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

13124

Received of

Stewarts Ice Cream Co. Inc. \$ 150.00

One Hundred fifty and 00/100 DOLLARS

For

ZBA Application Fee #92-4400

DISTRIBUTION:

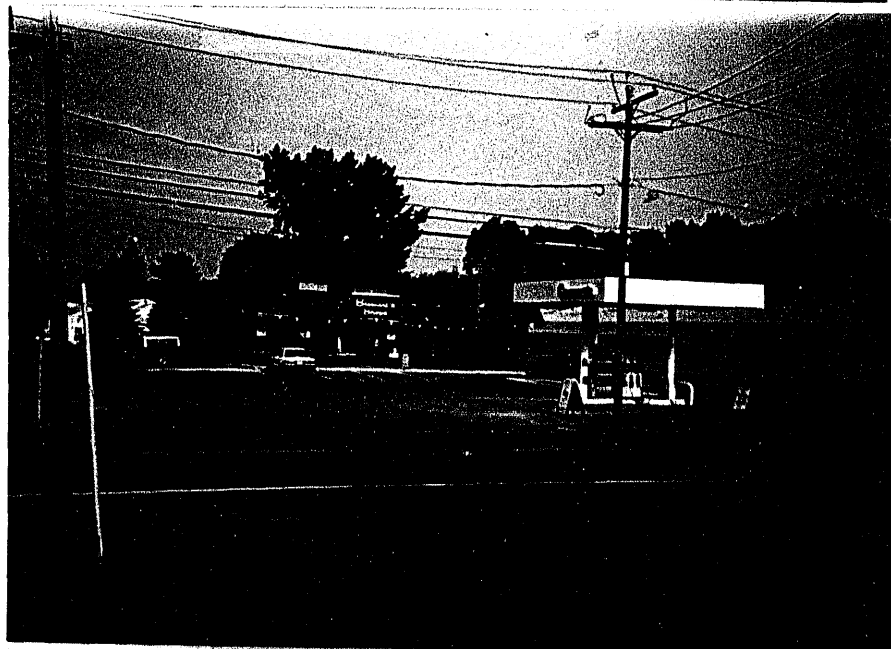
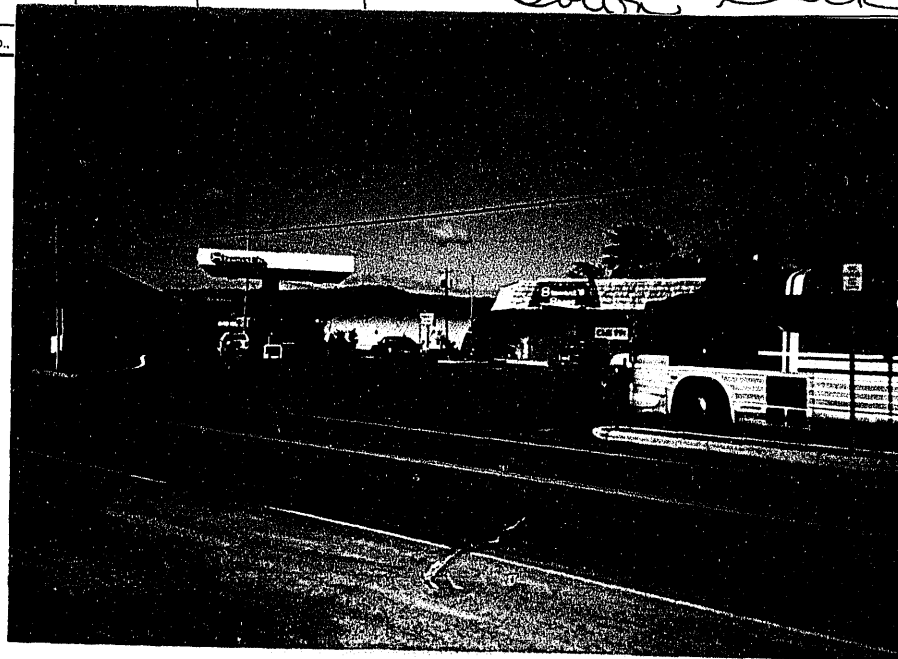
FUND	CODE	AMOUNT
<u>CP# 119134</u>		<u>150.00</u>

By

Pauline H. Townsend

Town Clerk

© WILLIAMSON LAW BOOK CO.

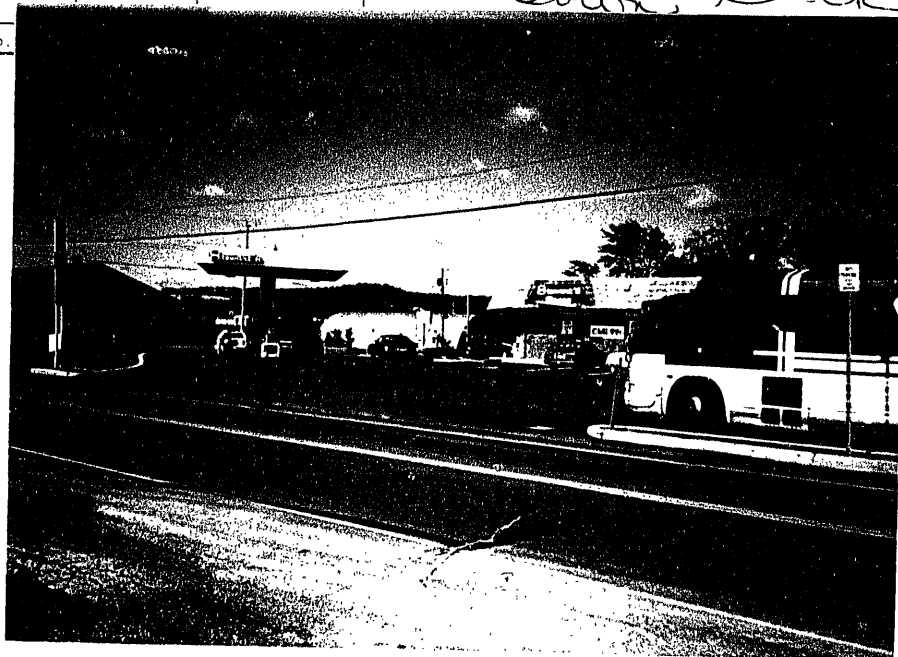


CO#188 - Son Kap. Vincent

Case # 119134	150.00

by J. C. Clark
 es

WILLIAMSON LAW BOOK CO.



Case 1188 - J. C. Clark

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Stockdale / Stewart

FILE # 92-49

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

APPLICATION FOR VARIANCE FEE \$ 150.00 pd,
* * * * * ck # 119134

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 250.00 pd,
ck # 119222

DISBURSEMENTS -

STENOGRAPHER CHARGES:

PRELIMINARY MEETING - PER PAGE 1/1/93 \$ N.C. - Pat did minutes
2ND PRELIM. MEETING - PER PAGE \$ _____
3RD PRELIM. MEETING - PER PAGE \$ _____
PUBLIC HEARING - PER PAGE 2/8/93 - 9 pages \$ 40.50
PUBLIC HEARING (CONT'D) PER PAGE \$ _____
TOTAL \$ 40.50

ATTORNEY'S FEES:

PRELIM. MEETING - <u>.3</u>	HRS.	\$ _____
2ND PRELIM. _____	HRS.	\$ _____
3RD PRELIM. _____	HRS.	\$ _____
PUBLIC HEARING <u>.4</u>	HRS.	\$ _____
PUBLIC HEARING _____	HRS. (CONT'D)	\$ _____
FORMAL DECISION <u>1.8</u>	HRS.	\$ _____
TOTAL HRS. <u>2.5</u> @ \$ <u>150.00</u> PER HR.		\$ <u>375.00</u>
TOTAL		\$ <u>375.00</u>

MISC. CHARGES:

Postage 64 @ .29 \$ 18.56
TOTAL \$ 434.06

LESS ESCROW DEPOSIT \$ 250.00
(ADDL. CHARGES DUE) \$ 184.06
REFUND TO APPLICANT DUE \$ _____

(ZBA DISK#7-012192.FEE)

-----X

In the Matter of the Application of

ARTHUR D. STOCKDALE, JULIE STOCKDALE/
STEWART'S,

DECISION GRANTING
SIGN VARIANCES

#92-49.

-----X

WHEREAS, ARTHUR D. STOCKDALE and JULIE STOCKDALE, P. O. Box 782, Long Hill Road, Cornwall, N.Y., owners, and STEWART'S, P. O. Box 435, Saratoga Springs, N. Y. 12866, lessee, have made application before the Zoning Board of Appeals for a 24 s.f. sign area variance for a freestanding sign (sign #5); a 28 s.f. sign area variance for two canopy signs, which are considered wall signs for purposes of this application (signs #1, #2, #3 and #4) in a zone where only two wall signs are permitted, all said signs to be located at applicant's premises located at the corner of Old Temple Hill Road and Old Windsor Road in a C zone; and

WHEREAS, a public hearing was held on the 8th day of February, 1993, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the applicant was represented at said public hearing by Graham P. Franks, Real Estate Manager for applicant, STEWART'S, who spoke in support of the application; and

WHEREAS, Mr. Franks presented a proxy statement from STOCKDALE, the record owner of the property, approving the sign which is the subject of this variance application; and

WHEREAS, there were no spectators present for the public hearing; and

WHEREAS, the application was unopposed; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings of fact in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that the applicant is seeking to vary the provisions of the bulk regulations pertaining to sign area and the maximum number of permitted wall signs in order to construct signage for a building which is proposed to be constructed at the corner of Old Temple Hill Road and Old Windsor Road.

3. Applicant's proposed sign area exceeds the bulk regulations for freestanding signs in the C zone by 24 s.f., (sign #5); and also exceeds the bulk regulations for wall signs

in the C zone by 28 s.f. for the two canopy signs (signs #1 and #2); and applicant's proposed total of four wall signs (signs #1, #2, #3 and #4) exceeds the maximum number of wall signs permitted by the bulk regulations for wall signs in the C zone by two wall signs. Variances for more than the allowable sign area and number of wall signs are required in order to allow construction thereof.

4. The evidence presented and the Board's familiarity with the area shows that the corner of Old Temple Hill and Old Windsor Roads, in the Vails Gate area of town, is the site of the proposed signs, is located very near to the intersection of Old Temple Hill Road and N.Y.S. Route 300 (also known as Temple Hill Road). These are well-traveled highways and two busy intersections are located in close proximity. The roads near the subject site are well traveled by motorists who are taking a "short cut" from Route 32 to Temple Hill Road either on Old Temple Hill Road or through the Vails Gate Heights Drive complex. Motorists on N.Y.S. Route 300 typically pass the subject site at from 35 to 40 m.p.h., depending upon traffic conditions. Motorists on Old Temple Hill Road and Old Windsor Road typically pass the subject site at from 25 to 35 m.p.h., depending upon traffic conditions. In addition, the site is located not far distant from the Five Corners intersection of Vails Gate, a well-traveled and complex intersection of three major arteries (N.Y.S. Route 32, 94 and 300). A significant volume of traffic which passes through this intersection, as well as a significant volume of traffic which is seeking to avoid this intersection, ultimately passes the subject site. Consequently clear signage, which quickly identifies the applicant's business at the site, is absolutely essential. In addition, this site is the first location in the community for STEWART'S and it is important that signage with its logo be clearly visible and quickly recognized by passing motorists.

5. The evidence presented by the applicant indicated that the location of the STEWART'S store is in a somewhat dark area, set back from the major nearby road (N.Y.S. Route 300) and thus signage which is greater in area as well as greater in number of permitted wall signs is required in order to provide the necessary response for applicant's new business in the community at an entirely new location. The applicant indicated that the two wall signs in excess of the permitted total of wall signs are the two canopy signs and these canopy signs, as well as the somewhat oversize total wall signage and oversize freestanding signs are needed in order to make the site visible from N.Y.S. Route 300. The applicant further indicated that the size of the proposed signs, the number thereof, and the position thereof were all in proportion to the building and the canopy, given the siting which is set back and below road grade. Finally, the applicant offered to stipulate that the proposed signage would be illuminated only during the hours when STEWART'S is open for business.

6. This Board finds that the requested sign area and maximum number of wall sign variances are not unreasonable and will not adversely impact the public health, safety and welfare.

7. The subject parcel is located in a commercial zone and all nearby commercial properties have signs to promote their businesses, including similar freestanding and canopy signage, many of which are larger than what is permitted in the C zone.

8. The evidence presented by the applicant further indicated and the Board's familiarity with the area further shows that clear and easily recognized signage is especially critical in this area because of the volume of traffic and the number of turning movements that occur at the two intersections at the site and in close proximity to the site. It is the finding of this Board that the applicant's proposed signage will accomplish this purpose in a reasonable manner and will allow the applicant to market its products to the public without adversely affecting the public health, safety and welfare.

9. The evidence presented further showed that the proposed signage will facilitate ready identification of the applicant's property, by passing motorists.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. The requested variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties. The premises are used for uses permitted in the C zone which is consistent with the character of the neighborhood. The proposed signage is consistent with the character of the neighborhood.

2. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.

3. The requested variances for sign area are not substantial in relation to the bulk regulations for sign area. The requested variances for number of wall signs is substantial in relation to the bulk regulations for permitted number of wall signs. However, this Board has concluded that the granting of the requested substantial variance is warranted here because the number of wall signs are reasonable given the setback of the building and canopy on the site, its elevation, and the distance from N. Y. S. Route 300. The proposed signage is a reasonable balancing of the applicant's needs to identify and promote its business on the site and the need to protect the health, safety and welfare of the traveled highways near busy intersections.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the applicant faces in conforming to the bulk regulations is partially self-created. The applicant's selection of this site in the C zone for new construction with knowledge of the applicable zoning regulations must preclude any claim of hardship. However, the ultimate siting of the building and canopy were influenced by the site plan approval process

before the Planning Board. Thus the applicant had to confront the issue of the adequacy of its signage and the exposure which could be derived from its signage given the site and setbacks which were ultimately approved. The applicant is seeking to overcome this difficulty in the appropriate manner by submitting the instant application.

6. It is the finding of this Board that the benefit to the applicant, if the requested sign variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant.

7. It is the further finding of this Board that the requested sign area variances are the minimum variances necessary and adequate to allow the applicant relief from the requirements of the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested sign variances.

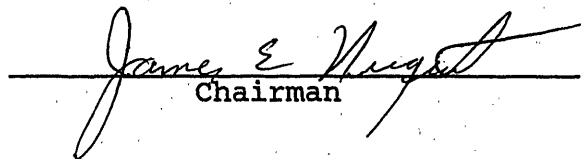
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a 24 s.f. sign area variance for a freestanding sign (sign #5); a 28 s.f. sign area variance for two canopy signs, which are considered wall signs for purposes of this application (signs #1 and #2); and a variance to allow a total of four wall signs (signs #1, #2, #3 and #4) in a zone where only two wall signs are permitted, as sought by applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: March 22, 1993.


Chairman

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following proposition:

Appeal No. 49
Request of STOCKDALE/STEWART'S
for a VARIANCE of
the regulations of the Zoning Local Law to
permit free-standing and wall signs with more than
the allowable sign area, the wall signs exceeding in
number by 2;
being a VARIANCE of

Section 48-12 Table of Use/Bulk Regs.-Col. N
for property situated as follows:

Corner of Old Temple Hill and Old Windsor Roads,
(Vails Gate), New Windsor, N.Y. known and designated
as tax map Section 65 - Blk. 2 - Lot 42

SAID HEARING will take place on the 8th day of
February, 1993, at the New Windsor Town Hall,
555 Union Avenue, New Windsor, N. Y. beginning at
7:30 o'clock P. M.

JAMES NUGENT
Chairman

Date 2/10/93, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 389 Moores Hill Rd DR.

New Windsor, NY 12553

DATE		CLAIMED	ALLOWED
2/8/93	Zoning Board Meeting	75 00	
	Misc. 2		
	Kemper - 5		
	Morin - 15		
	Stoddard/Stewarts - 9 - 40.50		
	Slifstein - 4		
	Bernhardt - 12	211 50	
	47	333 50	

STOCKDALE/STEWART'S

Mr. Graham P. Franks appeared before the board representing this proposal.

MR. NUGENT: Request for 24 s.f. sign variance for freestanding sign, 28 s.f. sign variance for two wall island signs and a variance for a total of four wall signs (only two permitted) for Stewart's to be constructed at the intersection of Old Windsor Road and Temple Hill Road in a C zone.

MR. FRANKS: For the sake of clarity, Mr. Chairman, the application says a variance for 4 signs. Do I conclude then that the use the phrase freestanding sign which is annotated on the map as sign #5.

MR. LUCIA: I think we have a map here.

MR. FRANKS: That is a double faced sign, is that counted as 2 signs or one sign?

MR. LUCIA: We just count the total area.

MR. NUGENT: Both sides.

MR. FRANKS: But it's one sign but for square footage purposes, it's whatever the aggregate is.

MR. LUCIA: The freestanding sign doesn't need a variance as a sign, it only needs a sign area variance. It's just that it is over sized.

MR. FRANKS: I want to make a change to--

MR. BABCOCK: I might be able to clarify that. In my denial, we have that he is proposing four signs and he needs a variance of 2. The ordinance reads that you are allowed on a corner lot one sign on each building facade. He has that sign plus he has 2 signs on the pumps which is a total of 4 signs so you have 4 wall signs, you're only allowed 2 wall signs so you need a variance of the 2. The freestanding sign is permitted, it's just the size.

February 8, 1993

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MR. TANNER: I'll make that motion.

MR. TORLEY: I'll second it.

ROLL CALL

MR. TORLEY	AYE
MR. NUGENT	AYE
MR. TANNER	AYE
MR. HOGAN	NO
MR. LANGANKE	NO

MR. LUCIA: Just to return to the freestanding sign for a moment, I notice in some of the typical photos you submitted they had a handwritten legend saying that the price sign is optional. I don't think the board is concerned whether you have a price sign. My question is the area of those price signs is included within the gross?

MR. FRANKS: It is not, sir. The New York State Law concerning gasoline price signs is left for interpretation wherein it says they must be visible from the street and that is in essence I may be paraphrasing the law but that is what it says. It has to be visible from the street. It then becomes as far as to address specifically the square footage is not included in this application. There are certain minimums on those kinds of things and we'll address that in the context of our gasoline marketing situation as we go forward. I'm here tonight only for those signs, copies of which you've gotten.

MR. LUCIA: I appreciate that, obviously this board has considered other signage at other gas stations and I believe the board's previous consideration included the area of the price signs on a sign at the street but did not include the area of the signs immediately over the pump.

MR. FRANKS: It's our intention from a marketing standpoint to have the price signs in the canopy area underneath the canopy, not at the street so they become if you please in close proximity to the gasoline dispensers and in that sense, we have obviated the need to address them.

MR. TORLEY: You have a photograph of freestanding signs and those will not be included?

MR. FRANKS: That is correct, sir. For the record, anticipating it might come up, I have a photograph of a gasoline canopy that has the price sign mounted on the canopy. It was the last blue sky day we had. Very, very briefly, ladies and gentlemen, I'd like to digress just slightly with respect to our philosophy on signs. For Stewart's Ice Cream, each sign must tell a story.

It must say who you are, where you are and what you are, what you have for sale. And peripherally with a light switch whether you are open or closed. They serve only 4 functions. Who, what, where and are, are you open. This particular community is very unique in that the words Stewart's have an expanded meaning, i.e. of course the airport and then on Route 9W the Stewart's Furniture store. So our purpose here with our development on Old Temple Hill Road is for the right Stewart's to be known, hopefully as we are in other areas, we hope someday to be generic as a 711 is in California, that kind of stuff. So we want to assist in the establishment of our name and our style in your community. That is a unique situation that has to do only with our name but it's part of your application. In addition unlike some retailers and I don't say this by way of criticism but observation, such as Hess, and Mobil and Lloyds, Stewart's relies on low light level of illumination, well within keeping of the neighborhood. We feel that proper signing as we have shown completes the function of signs, to tell a story of who, what, when and are in fact we open. Our neighbors and customers will benefit from these proposed signs in that it will produce we believe and from our 191 shops an efficient on-site traffic where to go to park and where to go to buy gasoline. And in addition to that, the signs as they are seen from the street will give sufficient time for the motorists to make a timely decision to make the correct maneuvers to get into the store in a safe manner. I need not remind you that this particular site is not at this point in time a heavily traveled road, i.e. it's not a 300, it's not a Union, it's not 17K or anything like that. It has some benefits to us in that we hope to be a neighborhood store. So in that keeping, in that idea, is why we have come up with the signs that we have. I submit Mr. Chairman I gave you one clear day now I'll give you a rainy day. These are the competitive influences with respect to the marketing of gasoline and the identification of convenient store sites. I submit that Hess has taken a position of intention lighting and intention sign their entire facility is a sign. Likewise, I submit that the signs which I've given to you for your review are the exact opposite of what sometimes happens when signs are abused. That

what a difference there is between the well-placed modest sign requirements which Stewart's has made application for. The significant issue is one of the signs numbered 1 and 2 and that those are signs which say no more than Stewart's on the canopy. An argument can be made that they are a freestanding sign. Yes, the canopy is a structure, it's a roof supported by columns and walls and I know the definition. In this particular case, because we're not on the main traveled way, it's our purpose and our need to be able to correctly identify our store to those people who are traveling on the road down to Vails Gate. And for that reason, we feel that the signs on the canopy are significant in the proper identification. They are 14 foot square, there are two of them on either side and I don't mean to get into the wordsmithing contest with you or debate, not contest, a wordsmithing debate about freestanding versus wall sign, what it is, it's just a question of definition. We feel that it's imperative for us to have the signs that we have shown on the plan. I submit Mr. Chairman that not only will it benefit our company, but there will be no detriment to the health, safety and welfare of the neighborhood. We use low level lighting and one of the nighttime, although it was not a very good photograph, it did show the area of illumination and if you will please, the signs go along with the low level of illumination and help to identify the site, that there be little undesirable change produced in the character of the neighborhood. It's correctly zoned and what we're doing is coming in with signs that modestly state the function. Can it be achieved in another manner, yes, we can do it through loud speakers and those kinds of things and I do not think that that is to attract attention to our store and I'm being somewhat facetious but I don't believe that there's any other substitute for modest signs that tell the correct story.

MR. LUCIA: Mr. Franks, I think the thrust of the question is there a way to achieve it under the Town Codes in another manner.

MR. FRANKS: Thank you very much, I standard corrected.

MR. LUCIA: And I think the answer is no, you need a

variance because this scope of signage.

MR. FRANKS: Yes.

MR. NUGENT: Let me just ask you a couple questions. The pictures that you showed us which is primarily this 1 and 2 are going to look like that?

MR. FRANKS: That is correct. It's a poor photograph of the nighttime definition of the word Stewart's.

MR. NUGENT: And 3 and 4 are going to look like that?

MR. FRANKS: That is correct, sir.

MR. NUGENT: And then one will be a freestanding sign which will look like one of the other pictures?

MR. FRANKS: The one with the blue sky.

MR. BABCOCK: That is sign #5 just for reference.

MR. NUGENT: Number 5 is going to look like that?

MR. FRANKS: Without this, that is correct, sir.

MR. NUGENT: Everybody understanding that?

MR. FRANKS: That is a double faced sign, it has an aggregate of 64 square feet, it's internally illuminated.

MR. TORLEY: And will be off when the station is closed?

MR. FRANKS: That is correct, sir.

MR. TORLEY: I'd like to thank you for a clear presentation.

MR. NUGENT: I am still trying to sort this out. Your request for 24 square foot sign variance for freestanding sign, that is this one?

MR. LUCIA: Sign #5.

MR. NUGENT: And 28 square feet of sign variance for a 2 wall island sign, that is 1 and 2?

MR. FRANKS: That is right, sir.

MR. LUCIA: Actually, that is a total of 1, 2, 3 and 4, isn't it in excess of the permitted amount of the ordinance?

MR. TORLEY: You're asking for 4 essentially so 14 square foot of each of the 2 signs is 28.

MR. NUGENT: Which is what we're going to be over that is actually 1, 2, 3 and 4.

MR. LUCIA: The area is a computation based on 1, 2, 3 and 4 and 3 and 4 are not permitted at all. One and 2 would have been if they were sufficient area.

MR. FRANKS: If I may, we can make one and pardon me, we can make 3 and 4 larger but that is not our style. We think that the size and the proportion of the signs that we have on our store building are appropriate for it. And that the signs, the 14 square foot signs and position 1 and 2 and on the canopy are correct for it, its size and position and I think the pictures show that. The need for the variance of the pole sign, freestanding sign is very honestly one of proportion to diminish it substantially to the required size which is help me?

MR. BABCOCK: 40.

MR. FRANKS: Thank you, would work to the detriment of the public in that that is the number one lead sign for our store having it out on the point where it rightfully belongs within the proper setbacks so that it can be visible from the motorists.

MR. LUCIA: Could you estimate the distance that sign would be from the intersection with Route 300? I assume you're hoping to get traffic off 300?

MR. FRANKS: 250 feet minimum. We need the size of the

sign so it will project the 250 feet something smaller than that and it becomes, it is a question of identification when you down size them.

MR. LUCIA: You may have also mentioned that the building sits down somewhat on the site.

MR. FRANKS: The building signs will be, they may appear to be sitting on the ground. They won't be of course, they'll be 9 feet high on the face of the building but because the finished floor area here goes something up slightly and then it goes down to Route 300 over in here so these signs while they'll serve the locals, these, the combination of these signs are for the 300 people.

MR. LUCIA: The 2 extra signs and the little bit square footage on wall signs is needed for that exposure.

MR. FRANKS: That is correct, sir, that is our belief and we really feel that in context of signs in general in your community, and I'm not as I say I'm not comparing, I'm just observing that what we're asking for is well within the context of traditional use in your community. Traditional size signs.

MR. NUGENT: We have a lot of problem with signage in this community we're trying to address.

MR. LUCIA: Do you feel that the area variances that you are seeking are in substantial in relation to the ordinance requirements?

MR. FRANKS: I do not, sir.

MR. LUCIA: Will the proposed variance have an adverse affect or impact on physical or environmental conditions in the neighborhood or detriment?

MR. FRANKS: On the neighborhood or district no, sir.

MR. LUCIA: Did you create this problem yourself?

MR. FRANKS: No, we did not, sir.

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MR. NUGENT: Any other questions by the board?

MR. TANNER: No, do we have any public?

MR. BABCOCK: No, nobody.

MR. FRANKS: Mr. Chairman, thank you. I have here a copy of documentation that supports the fact that we're here, we have the right to be here. I have it here ZBA copy, I don't--

MR. LUCIA: There's one in the file. Thank you for providing that and there's a proxy from Stockdale. I think we asked at the last meeting if possible to submit a copy of Stockdale's deed and title policy. I don't know if you got that.

MR. FRANKS: Would you believe I have a copy of Stockdale's deed? I listen also. There's 2 parcels, we're only taking one.

MR. LUCIA: The property is subject to certain grants, easements and rights-of-way and if we had the, since we don't have the title policy, is there anything to your knowledge which would prohibit you from maintaining the signage for which you are seeking a variance if this board should grant you one?

MR. FRANKS: I know of no prohibition contained in the deed at all.

MR. LUCIA: Thank you. Can we hang onto this?

MR. FRANKS: Of course.

MR. LUCIA: One other thing the board discussed at the preliminary was the hours during which Stewart's would be open. I think at that point, you had indicated it was in the range of 6 a.m. to midnight?

MR. FRANKS: Six to midnight and for the record, I did mention the fact then and I shall do it now, we have 191 stores as of today and we have eight which are open 24 hours. They are unique circumstances basically they are near prisons or hospitals and there is a need for

people, shift work and that kind of thing. It's Stewart's corporate policy not to be open 24 hours. We feel that the hazard-benefit analysis leans toward closing at some point in time rather than have people out there standing by themselves. I'd like however not to stipulate what hours of operation we have and I say that only for this reason. That I made a statement sometime ago about a store in Kingston, New York and that store opens up at 4:30 in the morning, not because we like to open at 4:30 in the morning because there are people coming by who want what we have to sell at 4:30 in the morning. That store happens to close at 10:30 at night. That is just a unique circumstances so typically we're open about 18 hours a day and I don't see that there would be any substantial variation from that. I don't see it as being a 24 hour store. It would be illuminated only when we're open.

MR. LUCIA: Would you stipulate to that?

MR. FRANKS: Of course.

MR. NUGENT: Any further questions by the board? We have no public input. I'll entertain a motion by the board.

MR. TORLEY: I move we grant the requested variances.

MR. LANGANKE: I second it.

ROLL CALL

MR. HOGAN	AYE
MR. TORLEY	AYE
MR. LANGANKE	AYE
MR. TANNER	AYE
MR. NUGENT	AYE



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

(914)563-4630

Date: March 23, 1993.
FAX: 914-563-4693

RE: ZONING BOARD OF APPEALS - APPLICATION # 92-49.

Dear ZBA Applicant:

After computation of the consulting fees that were posted with your application before the Zoning Board of Appeals, the Board found that there are additional fees due and owing in the amount of \$ 184.06. *pd*. (A copy of the computation list is attached).

In order to obtain a copy of your formal decision, this amount will have to be paid immediately.

Please forward a check in the above amount and I will be happy to furnish an executed copy of the formal decision.

Very truly yours,

PATRICIA A. BARNHART, Secretary
Zoning Board of Appeals

/pab

Attachment

(ZBA DISK#7-031292.FEE)



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

(64)

January 14, 1993

Graham Franks, Real Estate Manager
Stewart's
PO Box 435
Saratoga Springs, NY 12866

Re: Tax Map Parcel: 65-2-42
Owner: Stockdale, Arthur D. & Julie

Dear Mr. Franks:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$85.00, minus your deposit of \$25.00. Please remit the balance of \$60.00 to the Town Clerk's office.

Sincerely,

Leslie Cook (CO)

Leslie Cook
SOLE ASSESSOR

LC/cad
Attachments
cc: Pat Barnhart

Handwritten calculations:
$$\begin{array}{r} 42.9 \\ 61 \\ \hline 1374 \\ \hline 139.69 \end{array}$$

Postage
300
17.69
18.56

Kumstar, Rose Bluckert
c/o Wendell Harp
PO Box 400
New Paltz, NY 12561

Consolidated Rail Corp.
Property Tax Dept., PO Box 8499
Philadelphia, PA 19101

Bila Partners
158 North Main St.
Florida, NY 10921

Lawton, Edith B.
c/o Carmen Realty
236 Main St.
Cornwall, NY 12518

Beck, Raymond J. Jr. & Pauline A.
Box 498
Vails Gate, NY 12584

Stockdale, Arthur D. & Julie
PO Box 782 Long Hill Rd.
Cornwall, NY 12518

Simon, Daniel W. & Jennie E. & Jennie L.
6 Mertes Lane
New Windsor, NY 12553

Morey, Frank A. & Lois A.
Mertes Lane
New Windsor, NY 12553

Sherwood, Marcia J.
5 Putnam St.
Newburgh, NY 12550

Rashbaum, Gilbert
PO Box 7002 5 Meadow Hill Rd.
Newburgh, NY 12550

Gualtieri, Clarence & Lorraine
32 Stony Run Rd.
Newburgh, NY 12550

Kodsi, Moshe & Godsi Mayer
PO Box 575
Vails Gate, NY 12584

Manning, Thomas & Kathleen I.
2 Creek Run Rd.
Newburgh, NY 12550

Trifilo, William J. & Etta
Box 55
Vails Gate, NY 12584

De Couto, Terry C. & Lorraine
132 Old Temple Hill Rd.
New Windsor, NY 12553

Sheafe, Wayland H. & Joy C.
Box 21 Route 207
Rock Tavern, NY 12575

Panella, Emilio
PO Box 573
Vails Gate, NY 12584

Tornatore, Antonio & Gemma
82 Continental Dr.
New Windsor, NY 12553

Nichols, Walter L. & Lovella
PO Box 579
Vails Gate, NY 12584

Betrix, David B. & Elizabeth A.
PO Box 465
Vails Gate, NY 12584

Mitchell, Glen T.
PO Box 16
Cornwall, NY 12518

Garcon, Lionel & Marie C. & Charles
103 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Anderson, Ingrid
109 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Mariette, Alix M. & Adel
117 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Banks, Earnest & Ruth
125 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Reilly, John T. & Marina A.
133 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Feinberg, Joel & Talietha
PO Box 951
Vails Gate, NY 12584

Morange, William A. & Diana A.
149 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Uherec, Joseph J. & Doreen V.
157 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Kayes, Vincent L. & Jeanne M.
165 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Gojka, Josika
125 Lakeside Rd.
Newburgh, NY 12550

Town of New Windsor
555 Union Ave.
New Windsor, NY 12553

Wilson, Samuel C. & Norma M.
187 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Rayson, Maxine
195 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Parisi, Dominick S. & Lucille
53 Highview Ave.
Newburgh, NY 12550

Windsor Properties
c/o Peck & Heller
Mortgage Acct.
2301 Lincoln Bldg., 60 E 42nd St.
New York, NY 10165

Nottingham, Mary L.
PO Box 501
Vails Gate, NY 12584

Warner, John F. Jr. & Carol S.
90 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Dolan, Bernard & Beatrice
92 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Mendelson, Richard & Donna
96 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Velez, Jose M.
100 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Obey, Paulette & Mirta
102 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Hughes, John J. & Fay E.
104 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Nakatsu, Tetsuo & Mary Ellen
106 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Manna, Frank & Margaret
108 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Napolitano, Thomas & Billie Mae
110 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Saunders, Leon E. & Ann L. Barnett
114 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Donaghy, Francis J. & Agnes
116 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Mazureck, Robert A. & Linda R.
118 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Knight, Jeffrey P. & Earley, Veronica
120 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Mahoney, John F. & Luz M.
122 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Mc Garry, William & Lynne
124 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Higgenbotham, Eddie J. & Kimberly
126 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Sorrentino, Robert
59 Westlyn Dr.
Bardonia, NY 10954

Lamb, Edward M. & Anne P.
130 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Lagese, Barbara
134 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Sullivan, Francis E. & Carolyn M.
136 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Kessler, William & Adele
138 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Hawkins, Laura A. & Robert F. Tringali Jr.
140 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Gracey, Adeline P.
11809 Oakwood Dr.
Woodbridge, VA 22192

Ryerson, Jamene D.
148 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Forneris, Richard A. & Rosemary
150 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Stegura, Gregory D.
152 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Dursi, Pat A. & Patricia H.
154 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Adm of Veterans Affairs
c/o New York Guardian Mort Corp.
320 Fulton Ave
Hempstead, NY 11550

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

92-49

Date: 01/12/93

I. Applicant Information:

- (a) STOCKDALE, ARTHUR D. & JULIE, P. O. Box 782, Long Hill Rd., Cornwall, NY (owners;
(Name, address and phone of Applicant) (Owner)
- (b) STEWART'S, P. O. Box 435, Saratoga Springs, N.Y. 12866
(Name, address and phone of purchaser or lessee)
- (c) -
(Name, address and phone of attorney)
- (d) -
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- ☐ Use Variance ☒ Sign Variance
- ☐ Area Variance ☐ Interpretation

III. Property Information:

- (a) C Corner Old Temple Hill/Old Windsor Rds. 65-2-42 69,863.95 s.f.+
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? None
- (c) Is a pending sale or lease subject to ZBA approval of this application? Yes
- (d) When was property purchased by present owner? 11/25/91
- (e) Has property been subdivided previously? No
- (f) Has property been subject of variance previously? No
If so, when? -
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: N/A
- _____
- _____
- _____
- _____

IV. Use Variance. n/a

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow:
(Describe proposal) _____
- _____
- _____
- _____
- _____

n/a

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

V. Area variance: n/a

(a) Area variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

* Residential Districts only

** No-residential districts only

n/a

(b) The legal standard for an "area" variance is practical difficulty. Describe why you feel practical difficulty will result unless the area variance is granted. Also set forth any efforts you may have made to alleviate the difficulty other than this application.

VI. Sign Variance:

(a) Variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. N.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Canopy (Sign 1	0	28 s.f.	28 s.f.
(Sign 2	0		
Building (Sign 3	32 s.f.	32 s.f.	0
(Sign 4			
Freestanding Sign 5	40 s.f.	64 s.f.	24 s.f.

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra, or over size signs.

(See attached addendum)

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

Free-standing sign: 64 s.f.

Wall sign: 60 s.f.

TOTAL: 124 s.f.

VII. Interpretation. n/a

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

(b) Describe in detail the proposal before the Board:

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

IX. Attachments required:

- ☒ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- ☒ Copy of tax map showing adjacent properties.
- ☒ Copy of contract of sale, lease or franchise agreement.
- ☐ Copy of deed and title policy.
- ☒ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ☒ Copy(ies) of sign(s) with dimensions and location.
- ☒ Two (2) checks, one in the amount of \$150.00 and the second check in the amount of \$250.00, each payable to the TOWN OF NEW WINDSOR.
- ☒ Photographs of existing premises from several angles.

X. Affidavit.

Date: 01/12/93

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

Sworn to before me this

19th day of January, 1993.

(Applicant)
STEWART'S
By: *Graham P. Farnham*

XI. ZBA Action:

PATRICIA A. BARNHART
Notary Public, State of New York
No. 01BA4904434
Qualified in Orange County
Commission Expires August 31, 19**23**.

(a) Public Hearing date: Commission Expires August 31, 1970

(b) Variance: Granted () Denied ()

(c) Restrictions or conditions:

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

Applicant, STEWART'S, is in the process of constructing a building located in a C (design shopping) zone on the corner of Old Temple Hill Road and Old Windsor Road which will house STEWART'S ICE CREAM COMPANY convenience retail and grocery store with gasoline pump islands and is now proposing one free-standing sign and 4 wall signs. The total sign area requested is 124 s.f., 32 s.f. of which is for the 2 wall signs on the store. The 2 wall signs on the store are within the bulk regulations and no variances are required for these. Also requested is one (1) double-faced free-standing sign on the front corner of the property which is 32 s.f. per side for a total of 64 s.f. and two additional (2) wall signs on the pump island canopy, each are 14 s.f. for a total of 28 s.f. Therefore, applicant must apply for and seek sign area variances totaling 52 s.f. Since applicant is requesting four (4) wall signs, applicant must also request a variance from the regulation which states that more than two (2) wall signs exceeds the maximum number.

At the present time, STEWART'S is leasing the property with an option to purchase from owners, Arthur and Julie Stockdale.

Applicants feel that since the new structure will be located in an area which is sparsely lighted, the illumination from the signs will brighten a rather dark corner of an intersection which is well-traveled and the signs will be effective in allowing new customers to be able to locate the Stewart's Ice Cream convenience retail and grocery store. The signs as proposed will be unobtrusive and will not obscure or inhibit any sight visibility or cause traffic hazards.

Applicants feel that since this is a completely new structure with a large area for patrons to park, that a desirable change would be produced in the character of the neighborhood and no detriment would be caused to the nearby properties.

Applicants have reviewed the sign regulations in the C zoning district and realize that there is a limitation to the square footage which is allowed. Considering applicants' signage proposal before the Board, applicants feel that they cannot achieve this without the benefit of the variance procedure and that there is no other method which is feasible to applicants other than the variance procedure.

Applicants are seeking sign variances for a free-standing sign, building and canopy signs on a large piece of commercial property located across the street from a floor tile store and to the rear of a multi-housing complex in a C zone. The speed limit allows vehicles to travel at approximately 30 m.p.h. as they traverse this relatively busy corner which links two major highways (Route 32 and Route 300) in the town. Signs which identify the Stewart's Ice Cream convenience retail grocery store are imperative for today's competitive retail store market. Therefore, applicant feels that a sign variance request such as this is not substantial.

Applicants feel that the granting of the variances will not be detrimental to the health, safety or welfare of the neighborhood or community or have an adverse effect on the physical or environmental conditions since the property is zoned for commercial businesses of this type.

Applicants do not feel that this request constitutes a self-created hardship because applicant is in the process of constructing a brand new operation which will be the first Stewart's retail convenience grocery store in this area and new signage is imperative for marketing and identification purposes in order to attract customers to this area of town.

PROXY STATEMENT

for submittal to the

TOWN OF NEW WINDSOR

Zoning Board of Appeals

We, Arthur Stockdale & Julie Stockdale, deposes and says that they
resides at PO Box 782, Long Hill Road Cornwall, N.Y. 12518
(Owner's Address)

in the County of ORANGE

and State of NEW YORK

and that he is the owner in fee of map 65 Bl. 2 lot 42, Old Temple
Hill Road, Town of New Windsor

which is the premises described in the foregoing application and

that he has authorized Arthur B. Lee Green Co., Graham H. Starks, R/E Manager

to make the foregoing application as described therein.

Date: 1/16/93

[Signature]
(Owner's Signature)

Julie Stockdale
Michael Hopp
(Witness' Signature)

THIS FORM CANNOT BE WITNESSED BY THE PERSON OR REPRESENTATIVE OF
THE COMPANY WHO IS BEING AUTHORIZED TO REPRESENT THE APPLICANT
AND/OR OWNER AT THE MEETINGS.

ZONING BOARD OF APPEALS OF THE TOWN OF NEW WINDSOR
JANUARY 11, 1993

MEMBERS PRESENT: LAWRENCE TORLEY, INTERIM CHAIRMAN
 TED TANNER
 DANIEL HOGAN
 HERBERT LANGANKE

MEMBERS ABSENT: JAMES NUGENT

ALSO PRESENT: DANIEL S. LUCIA, ESQ.,
 ATTORNEY FOR ZBA
 PATRICIA A. BARNHART, SECRETARY

The January 11, 1993 session of the Zoning Board of Appeals was called to order by Interim Chairman, Lawrence Torley. Roll call was taken by Secretary.

PRELIMINARY MEETING: STOCKDALE/STEWART'S -

Graham P. Franks, Real Estate Manager for STEWART'S ICE CREAM COMPANY, was present representing applicant STEWART'S and its request for 28 s.f. sign variance for Sign #1 and Sign #2 which are both canopy signs, two (2) building signs which total 32 s.f. (indicated as Signs #3 and #4 on site plan) which do not require any variances, 24 s.f. variance for one (1) free-standing sign indicated on the site plan as Sign #5, and a variance for wall signs which exceed the maximum number of signs by 2. Mr. Franks stated that Stewart's is leasing the parcel for a period of time with the option to purchase from owners, Arthur D. and Julie Stockdale.

Mr. Franks informed the Board members that the Planning Board has approved the site plan and that he would provide a stamped copy for the Board's approval.

It was indicated by Mr. Franks that applicant Stewart's feels the need for all of the requested signs because the area of Old Temple Hill Road is a very sparsely lighted area and because the store is proposed to be constructed off the main roadway, there is a serious need for identification through to Route 300. Mr. Franks also presented some photographs of another Stewart's Ice Cream store in a different location which depicted the "Stewart's" canopy sign which is 2 x 8 ft., and internally illuminated. The fascia of the canopy, however, is not illuminated. Mr. Franks elaborated that since Stewart's is in the gasoline business, the canopy helps to identify that there is gasoline available at the site for those outside the area who are not familiar with the operation. Mr. Franks indicated that the signs will only be illuminated during the hours of operation (from 5:30 a.m. to midnight).

There was a short discussion as to whether the canopies were considered accessory buildings. Building Inspector Babcock stated that the Planning Board did not indicate that the canopies were accessory buildings and were satisfied with the site plan

after Stewart's moved the building further to the rear of the parcel.

Attorney Lucia requested that Mr. Franks have the zoning data on the site plan revised to reflect the actual variances requested so that the signage calculations will match the application. Also, Attorney Lucia informed Mr. Franks of the legal standard for granting an area variance and offered a copy of the five specific factors to which the Board bases its decisions. A request was made to Mr. Franks for a copy of the deed and/or lease, copy of title report, letter of authorization from the owners and fees in the sum of \$150.00 and \$250.00.

Interim Chairman requested a motion to schedule a public hearing on this matter. Motion followed by Ted Tanner, seconded by Dan Hogan. Roll call - 4-0. Motion carried.

* * *

PUBLIC HEARING - MORIN, ANDRE -

The public hearing on the application of ANDRE MORIN which was adjourned from December 14, 1992 was supposed to be continued at this meeting. However, Mr. Morin, his attorney Mark Taylor, Esq., J. Tad Seaman, Esq., Attorney for the Town, and the adjacent neighbors on Hickory Avenue were not able to meet in the short time during the Christmas/New Years holiday. In view of this fact, motion followed by Ted Tanner, seconded by Herb Langanke to adjourn this matter further to January 25, 1993 in order to allow time for the meeting to take place. Mr. Morin is requesting a 35 ft. street frontage variance in order to create a buildable lot on Hickory Avenue in an R-4 zone.

* * *

PUBLIC HEARING - SARINSKY, DAVID -

This hearing was adjourned on December 28, 1992 pending receipt of review from Orange County Planning and Development. Since the County had more than 30 days to make its review, and none was received by this Board, the hearing was reconvened on this date in order to render a decision in this matter.

Applicant, David Sarinsky, was present for this hearing along with contract purchaser, Addie Guerra and again requested a 50 ft. street frontage variance, 20 ft. rear yard variance and use variance in order to construct a single-family residential dwelling in an NC zone. Additional photographs of the property were presented by Mr. Sarinsky.

There was one spectator in the audience, Mr. Donald Gladstone of 28 Brown's Drive, New Windsor, N.Y., who presented a letter dated January 4, 1993 which stated that he was withdrawing his opposition to the application before the Board on the condition that it would only be approved as residential property.

MEMORANDUM OF LEASE

Notice is hereby provided of the existence of the following lease:

1. Lessor: Arthur D. Stockdale
Julie Stockdale
PO Box 782, Long Hill Road
Cornwall, NY 12518
2. Lessee: Stewart's Ice Cream Co., Inc.
PO Box 435
Saratoga Springs, NY 12866
3. Leased premises: Map #65, BL. 2, Lot 42, Old Temple Hill Road
Town of New Windsor, Orange County, New York
4. Term of Lease: 15 years commencing in December 1, 1992
5. Options to Renew: no
6. Option to acquire property or right of 1st refusal: yes

Lessor: Arthur D. Stockdale
Arthur D. Stockdale
SS# 154-46-9692

Lessor: Julie Stockdale
Julie Stockdale
SS# 102-48-2774

Lessee: Stewart's Ice Cream Co., Inc.
ID#

State of New York }
County of Orange } ss

On this 23 day of November, 1992, before me personally appeared Arthur D. Stockdale and Julie S tockdale, to me known, who being by me duly sworn, did depose and say: that they reside at Cornwall NY; that they executed the foregoing instrument and that they signed their name thereto by like order.

Karen A. Pinder
Notary Public

KAREN A. PINDER
Notary Public, State of New York
No. 4618998
Qualified in Orange County
Commission Expires April 30, 1993

State of New York }
County of Saratoga }

On this 30 day of Nov; 1992, before me personally appeared William P. Dake, to me known, who being by me duly sworn, did depose and say: that he resides at 90 Bryan Street, Saratoga Springs, NY; that he is President of Stewart's Ice Cream Co., Inc. which executed the foregoing instrument and that he signed his name thereto by like order.

Mary Anne Macica
Notary Public

MARY ANNE MACICA
Notary Public
State of New York, Saratoga County
My Commission Expires 12/31/92
4710669

1/13/93
TO FILE @
FOLK RECORDS

R-6414A

P 1891—Harris & Sons Deed with Covenant against Grantor. JULIUS BLUMBERG, INC., LAW BLANK PUBLISHERS
Stat. Form, Ind. or Corp.: 1 Side Recording.

THIS IS A LEGAL INSTRUMENT AND SHOULD BE EXECUTED UNDER SUPERVISION OF AN ATTORNEY.

THIS INDENTURE, made the 21st day of November 1991.
BETWEEN FELICIA MORGESE, presently residing at
77 Sullivan Street, Apt. 2A, New York, New York 10012

ARTHUR D. STOCKDALE and JULIE STOCKDALE, husband grantor
and wife, presently residing at
P.O. Box 782, Long Hill Road, Cornwall, New York
12518

grantee

WITNESSETH, that the grantor, in consideration of
ten dollars -- (\$10.00) -- Dollars, paid by the grantee
hereby grants and releases unto the grantee, the heirs or successor and assigns of the grantee forever,

XXX

OLD TEMPLE HILL ROAD
NEW WINDSOR, ORANGE COUNTY
NEW YORK 12553

65 - 2 - 41 AND 65 - 2 - 42

SEE SCHEDULE "A" ATTACHED HERETO AND MADE A PART HEREOF:

TOGETHER with the appurtenances and all the estate and rights of the grantor in and to said premises.
TO HAVE AND TO HOLD the premises herein granted unto the grantee, the heirs or successors and assigns of the
grantee forever. AND the said grantor covenants that the grantor has not done or suffered anything whereby the said
premises have been encumbered in any way whatever. This deed is subject to the trust provisions of Section 13 of the Lien Law.

The words "grantor" and "grantee" shall be construed to read in the plural whenever the sense of this deed so requires.
IN WITNESS WHEREOF, the grantor has executed this deed the day and year first above written.

In presence of:

Felicia Morgese L. S.
FELICIA MORGESE L. S.

STATE OF NEW YORK, COUNTY OF

On the 21st day of November 1991, before
me personally came
who, being by me duly sworn, did depose and say that deponent resides
at No. _____
deponent is _____

of _____
the corporation described in and which
executed the foregoing instrument; deponent knows the seal of said
corporation; that the seal affixed to said instrument is such corporate
seal; that it was so affixed by order of the Board of Directors of said
corporation; deponent signed deponent's name thereto by like order.

DANIEL I. DILLOM
NOTARY PUBLIC, STATE OF New York
Residing in Orange County
Comm. Expires March 31, 1992

STATE OF NEW YORK, COUNTY OF ORANGE
On the 21st day of November 1991, before
me personally came

Felicia Morgese

to me known to be the individual described in, and who executed
the foregoing instrument, and acknowledged that she executed
the same.

Daniel I. Dillom
Notary Public

LIBR-3526 PAGE 17

SCHEDULE "A"

PARCEL 1 (Section 65 Block 2 Lot 41)

ALL that certain piece or parcel of land lying, situate and being in the Town of New Windsor, County of Orange and State of New York, bounded and described as follows:

BEGINNING at an iron rod found on the easterly line of Old Temple Hill Road, said point being S 26 degrees 46' E 414.0' along said line from a point in range with a stonewall running along the northeasterly line of the Consolidated Rail Corporation; and running thence, leaving said line of Old Temple Hill Road, N 42 degrees 06' 30" E passing over the southwesterly end of a stonewall at 310'+- and continuing along the stonewall a total distance of 365.07' to a point in the corner of said stonewall; thence leaving said wall, S 28 degrees 32' E 49.12' to a point; thence along the line of lands now or formerly of Raymond J., Jr. and Pauline A. Beck, S 42 degrees 06' 30" W passing through a metal fence post located at the northeasterly end of a fence at 12.79' a total distance of 366.70' to a point on the aforesaid line of Old Temple Hill Road, said point being N 26 degrees 46' W 303.0' along said line from an iron bar found at the southwesterly corner of lands now or formerly of Edith B. Lawton from Deed in Liber 2158 of Deeds at Page 291; thence along the said line of Old Temple Hill Road, N 26 degrees 46' W 49.69' to the point or place of beginning.

CONTAINING 16,956 SQUARE FEET OF LAND MORE OR LESS.

SUBJECT to grants, easements and right-of-ways of record, if any.

BEING AND INTENDED to be the same premises as described in that certain deed dated July 13, 1976, running from Nicolette Morgese to Felicia Morgese and thereafter recorded in the Orange County Clerk's Office on September 14, 1976 in Liber 2046 of Deeds at Page 485.

AND

PARCEL 2 (Section 65 Block 2 Lot 42)

ALL that certain piece or parcel of land, lying, situate and being in the Town of New Windsor, County of Orange and State of New York bounded and described as follows:

BEGINNING at a point at the intersection of the easterly line of

1

LIBER 3526 PAGE 18

Old Temple Hill Road with the southeasterly line of Vails Gate Heights Road, said point being S 26 degrees 46' E 207.0' along said Old Temple Hill Road from a point in range with a stonewall running along the northeasterly line of the Consolidated Rail Corporation; and running thence leaving the line of Old Temple Hill Road and along the said line of Vails Gate Heights Road and lands of the Town of New Windsor, N 42 degrees 06' 30" E 358.30' to a point; thence still along the line of lands of the Town of New Windsor, S 28 degrees 32' E 204.66' to a point in the corner of a stonewall; thence along said stonewall S 42 degrees 06' 30" W passing over the end of said stonewall at 55' +-, a total distance of 365.07' to an iron rod found on the said line of Old Temple Hill Road, said point being N 26 degrees 46' W 352.69' along said line from an iron bar found at the southwesterly corner of lands now or formerly of Edith B. Lawton from Deed in Liber 2158 of Deeds at Page 291; thence along said line of Old Temple Hill Road, N 26 degrees 46' W 207.0' to the point or place of beginning.

CONTAINING 1.60 ACRES OF LAND MORE OR LESS.

SUBJECT to grants, easements and right-of-ways of record, if any.

BEING AND INTENDED to be the same premises as described in that certain deed dated July 13, 1976, running from Nicolette Morgese to Felicia Morgese and thereafter recorded in the Orange County Clerk's Office on September 14, 1976 in Liber 2046 of Deeds at Page 483.

BEGINNING at an iron rod found on the easterly line of Old Temple Hill Road, said point being S 26 degrees 46' E 414.0' along said line from a point in range with a stonewall running along the northeasterly line of the Consolidated Rail Corporation; and running thence, leaving said line of Old Temple Hill Road, N 42 degrees 06' 30" E passing over the southwesterly end of a stonewall at 310' +- and continuing along the stonewall a total distance of 365.07' to a point in the corner of said stonewall; thence leaving said wall, S 28 degrees 32' E 49.12' to a point; thence along the line of lands now or formerly of Raymond J., Jr. and Pauline A. Beck, S 42 degrees 06' 30" W passing through a metal fence post located at the northeasterly end of a fence at 12.79' a total distance of 366.70' to a point on the aforesaid line of Old Temple Hill Road, said point being N 26 degrees 46' W 303.0' along said line from an iron bar found at the southwesterly corner of lands now or formerly of Edith B. Lawton from Deed in Liber 2158 of Deeds at Page 291; thence along the said line of Old Temple Hill Road, N 26 degrees 46' W 49.69' to the point or place of beginning.

CONTAINING 16,956 SQUARE FEET OF LAND MORE OR LESS.

SUBJECT to grants, easements and right-of-ways of record, if any.

BEING AND INTENDED to be the same premises as described in that certain deed dated July 13, 1976, running from Nicolette Morgese to Felicia Morgese and thereafter recorded in the Orange County Clerk's Office on September 14, 1976 in Liber 2046 of Deeds at Page 485.

AND

PARCEL 2 (Section 65 Block 2 Lot 42)

ALL that certain piece or parcel of land, lying, situate and being in the Town of New Windsor, County of Orange and State of New York bounded and described as follows:

BEGINNING at a point at the intersection of the easterly line of

1

LIBER 3526 PAGE 18

Old Temple Hill Road with the southeasterly line of Vails Gate Heights Road, said point being S 26 degrees 46' E 207.0' along said Old Temple Hill Road from a point in range with a stonewall running along the northeasterly line of the Consolidated Rail Corporation; and running thence leaving the line of Old Temple Hill Road and along the said line of Vails Gate Heights Road and lands of the Town of New Windsor, N 42 degrees 06' 30" E 358.30' to a point; thence still along the line of lands of the Town of New Windsor, S 28 degrees 32' E 204.66' to a point in the corner of a stonewall; thence along said stonewall S 42 degrees 06' 30" W passing over the end of said stonewall at 55' +-; a total distance of 365.07' to an iron rod found on the said line of Old Temple Hill Road, said point being N 26 degrees 46' W 352.69' along said line from an iron bar found at the southwesterly corner of lands now or formerly of Edith B. Lawton from Deed in Liber 2158 of Deeds at Page 291; thence along said line of Old Temple Hill Road, N 26 degrees 46' W 207.0' to the point or place of beginning.

CONTAINING 1.60 ACRES OF LAND MORE OR LESS.

SUBJECT to grants, easements and right-of-ways of record, if any.

BEING AND INTENDED to be the same premises as described in that certain deed dated July 13, 1976, running from Nicolette Morgese to Felicia Morgese and thereafter recorded in the Orange County Clerk's Office on September 14, 1976 in Liber 2046 of Deeds at Page 483.

2

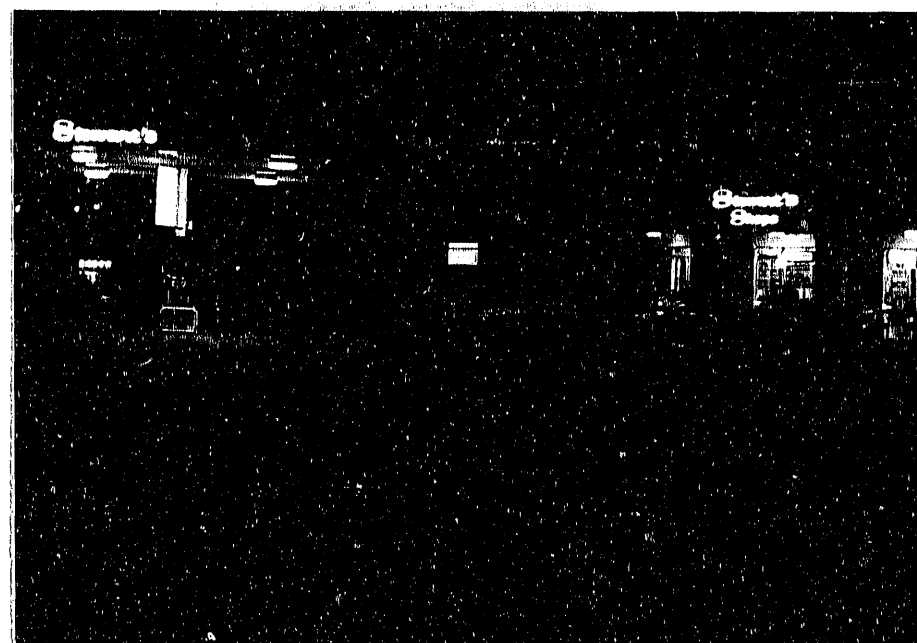
LIBER 3526 PAGE 19

CANOPY SIGNS





TYPICAL STEWART'S SHOP
DAYLIGHT



TYPICAL STEWART'S SHOP
NIGHT -
DEFINITE GAS AREA

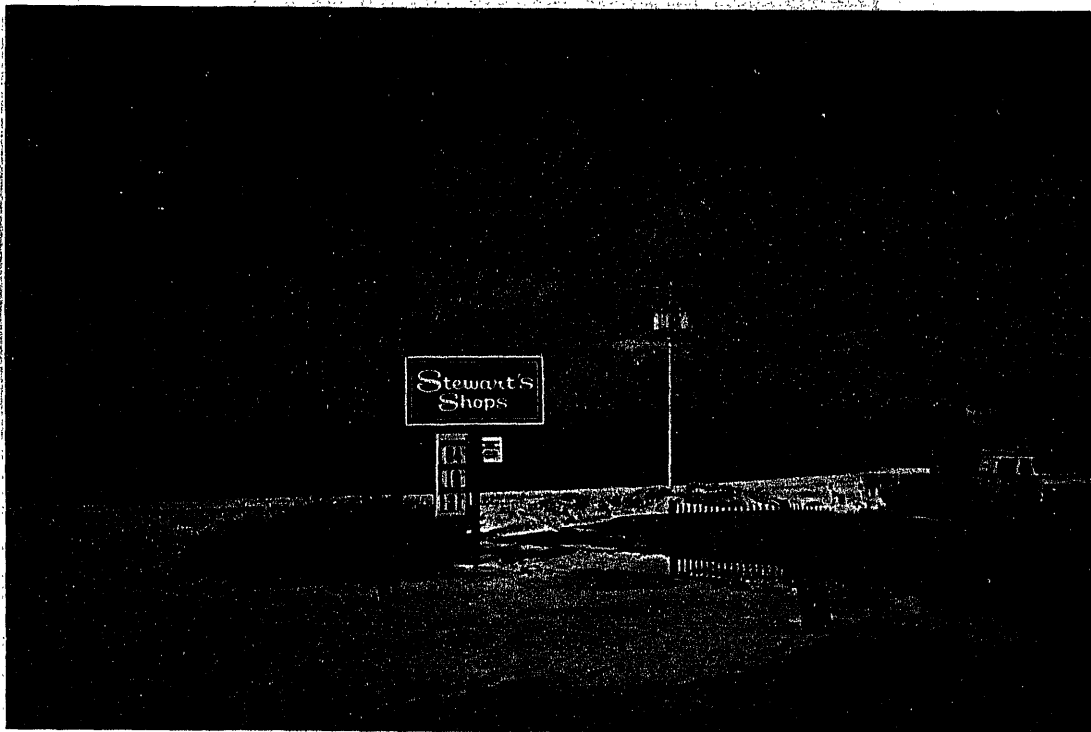


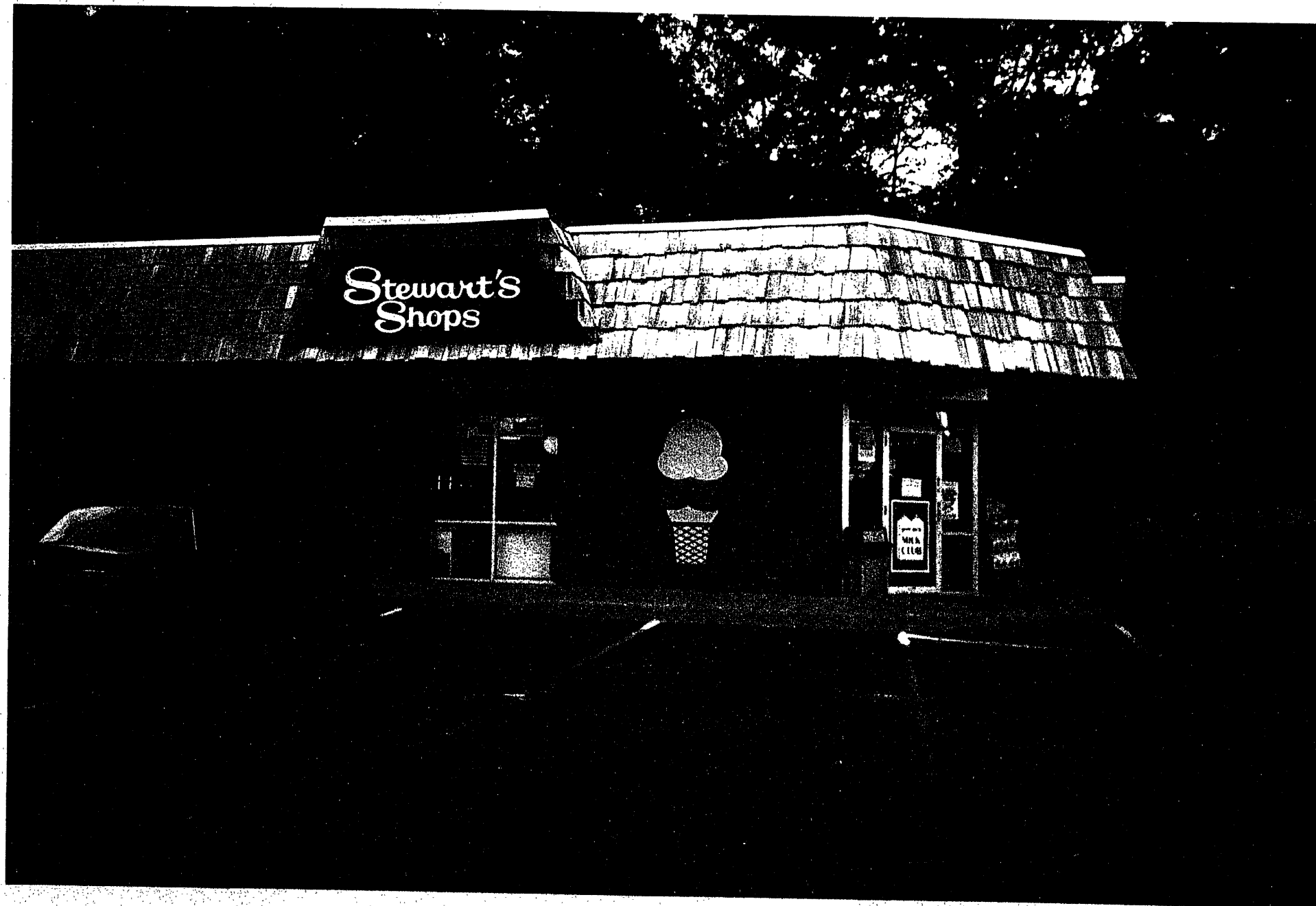
Twilight

CANOPY SIGN - (14 5/8 ft.) 2. Greenhead



TYPICAL STEWART'S SIGN
4' X 8' 32 SF/EACH FACE
PRICE SIGN OPTIONAL





ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

In the Matter of Application for Variance of

Stockdale/Stewart's.

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#92-49.

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On January 26, 1993 I compared the 64 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
26th day of January, 1993.

Deborah Green
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1993

(TA DOCDISK#7-030586.AOS)

Pauline
Jan 14, 1993

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: DECEMBER 18, 1992

APPLICANT: STEWARTS
P.O. BOX 435
SARATOGA SPRINGS, N.Y. 12866

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE:

FOR (BUILDING PERMIT): 6106

LOCATED AT: CORNER OLD TEMPLE HILL ROAD AND OLD WINDSOR ROAD

ZONE

DESCRIPTION OF EXISTING SITE: SEC: 65 BLOCK: 2 LOT: 42

VACANT LAND

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. FREE STANDING SIGN EXCEEDS MAXIMUM SIZE BY 24 SQ.FT.
2. WALL SIGNS EXCEED MAXIMUM NUMBER OF SIGNS BY (2)

Frank Lin
BUILDING INSPECTOR

PERMITTED

PROPOSED OR
AVAILABLE

VARIANCE
REQUEST

ZONE C

USE N6,N7

<i>Store</i>	SIGNS N6 WALL (BLDG)	32 SQ.FT. <i>(16 sf ea)</i>	32 SQ.FT.	0
<i>Freestanding</i>	N7	40 SQ.FT.	64 SQ.FT.	24 SQ.FT.
	HEIGHT	14FT.	14FT.	
<i>Canopy</i>	2- WALL SIGNS ISLAND	0 <i>(14 sf ea)</i>	28 SQ.FT.	28 SQ.FT.

TOTAL ALL SIGNS

TOTAL OF WALL SIGNS 2

4

2

124 s.f. Total signage. 52 s.f. Variance

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT
914-563-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD OF
APPEALS.

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: DECEMBER 18, 1992

APPLICANT: STEWARTS
P.O. BOX 435
SARATOGA SPRINGS, N.Y. 12866

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1. FREE STANDING SIGN EXCEEDS MAXIMUM SIZE BY 24 SQ.FT.
2. WALL SIGNS EXCEED MAXIMUM NUMBER OF SIGNS BY (2)

W. Frank Liu
BUILDING INSPECTOR

PERMITTED	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE C	USE N6,N7	
<i>Stru-2</i> SIGNS N6 WALL (BLDG) 32 SQ.FT. <i>(16sf ea)</i>	32 SQ.FT.	0
1- FREESTANDING N7 40 SQ.FT.	64 SQ.FT.	24 SQ.FT.
HEIGHT 14FT.	14FT.	
<i>Canopy 2-</i> WALL SIGNS ISLAND 0 <i>(14sf ea)</i>	28 SQ.FT.	28 SQ.FT.
TOTAL ALL SIGNS		
TOTAL OF WALL SIGNS 2	4	2

124 s.f. Total sign area. 52 s.f. Variance

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT 914-363-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.

CC: Z.B.A., APPLICANT, B.P. FILE

10. THERE WILL BE NO INSPECTIONS UNLESS YELLOW PERMIT CARD IS POSTED.
11. SEWER PERMITS MUST BE OBTAINED ALONG WITH BUILDING PERMITS FOR NEW HOUSES.
12. SEPTIC PERMIT MUST BE SUBMITTED WITH ENGINEER'S DRAWING & PUMP TEST.
13. ROAD OPENING PERMITS MUST OBTAINED FROM TOWN CLERKS OFFICE.
14. ALL BUILDING PERMITS WILL NEED A CERTIFICATION OF OCCUPANCY OR A CERTIFICATE OF COMPLIANCE AND THERE IS A FEE FOR THIS.

Name of Owner of Premises: Stewart's Ice Cream Co.
Address: PO Box 435 Saratoga Springs, NY 12160 Phone: 518-581-1000 Ext 104
Name of Architect: Gailor Associates
Address: 59 Franklin St Saratoga Springs, NY 12160 Phone: 518-584-1300
Name of Contractor: EMCO
Address: Pt 155-20 Star Plaza Guildford, Conn 06430 Phone: 518-456-1853
State whether applicant is owner, lessor, agent, architect, engineer or builder: _____
If applicant is a corporation, signature of duly authorized officer: _____

(Name and title of corporate officer) *Nancy B. Trumble SP Facilitator*

On what street is property located? On the East side of Old Temple Hill Rd
(N.S.E. or W.)
and 0 feet from the intersection of Old Windsor Rd
Zone or use district in which premises are situated G-Designated Shopping Is property a flood zone? Yes No
Tax Map description of property: Section 6.5 Block 2 Lot 42
State existing use and occupancy of premises and intended use and occupancy of proposed construction.
a. Existing use and occupancy vacant b. Intended use and occupancy convenient grocery store
Nature of work (check which applicable): New Building X Addition Alteration Repair
Removal Demolition Other
Size of lot: Front Rear 305 Depth 207 Front Yard 110 Rear Yard 157 Side Yard 64
Is this a corner lot? Yes
Dimensions of entire new construction: Front 40 Rear 60 Depth Height 14 Number of stories 1
If dwelling, number of dwelling units Number of dwelling units on each floor
Number of bedrooms Baths Toilets
Heating Plant: Gas Oil Electric/Hot Air Hot Water
If Garage, number of cars
If business, commercial or mixed occupancy, specify nature and extent of each type of use convenient retail grocery store w/ gas
Estimated cost Fee
(to be paid on this application)
School District

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

Stewart's

Typical Canopy Sign

Letters: 1/8" Plexiglass Face On
4 1/2" Thick Can
White Letters/Burgundy Trim

Lights: 2-110 Watt H.O. 8' Fluorescent

Size: 8' x 1'-9" = 14 sq. ft.

SECTION 82

SECTION 86

SECTION 35

SEE SECTION 71

1" = 100'

68

2

12
19.9A(C)

40
2.2 A(C)

39
1A

38
1.7A

37

NEW WINDSOR SEWER DISTRICT

GARBAGE DISTRICT
HWY. 38
4865

ROAD 3835

OLD TEMPLE
200
103
200

42
164

41

367

367

367

367

367

367

367

SECTION

SECTION 82

SECTION 86

SECTION 35

SEE SECTION 71

1" = 100'

NEW WINDSOR WATER DISTRICT

NEW WINDSOR SEWER DISTRICT

SECTION 68

1" = 100'

2

12
19.9A(C)

40
2.2 A(C)

39
1A

38
1.7A

37
1.6 A

36
1.1A

35
2.5 A(C)

34
1.7A
1.9A
1.3A
1.4A

20
1.7A
1.9A
1.3A
1.4A

21
1.7A
1.9A
1.3A
1.4A

22
1.7A
1.9A
1.3A
1.4A

23
1.7A
1.9A
1.3A
1.4A

25
25A

Vails Gate

Vails Gate

199.4
Cemetery

Fire Co.

199.4
Cemetery



W... W... W... W...



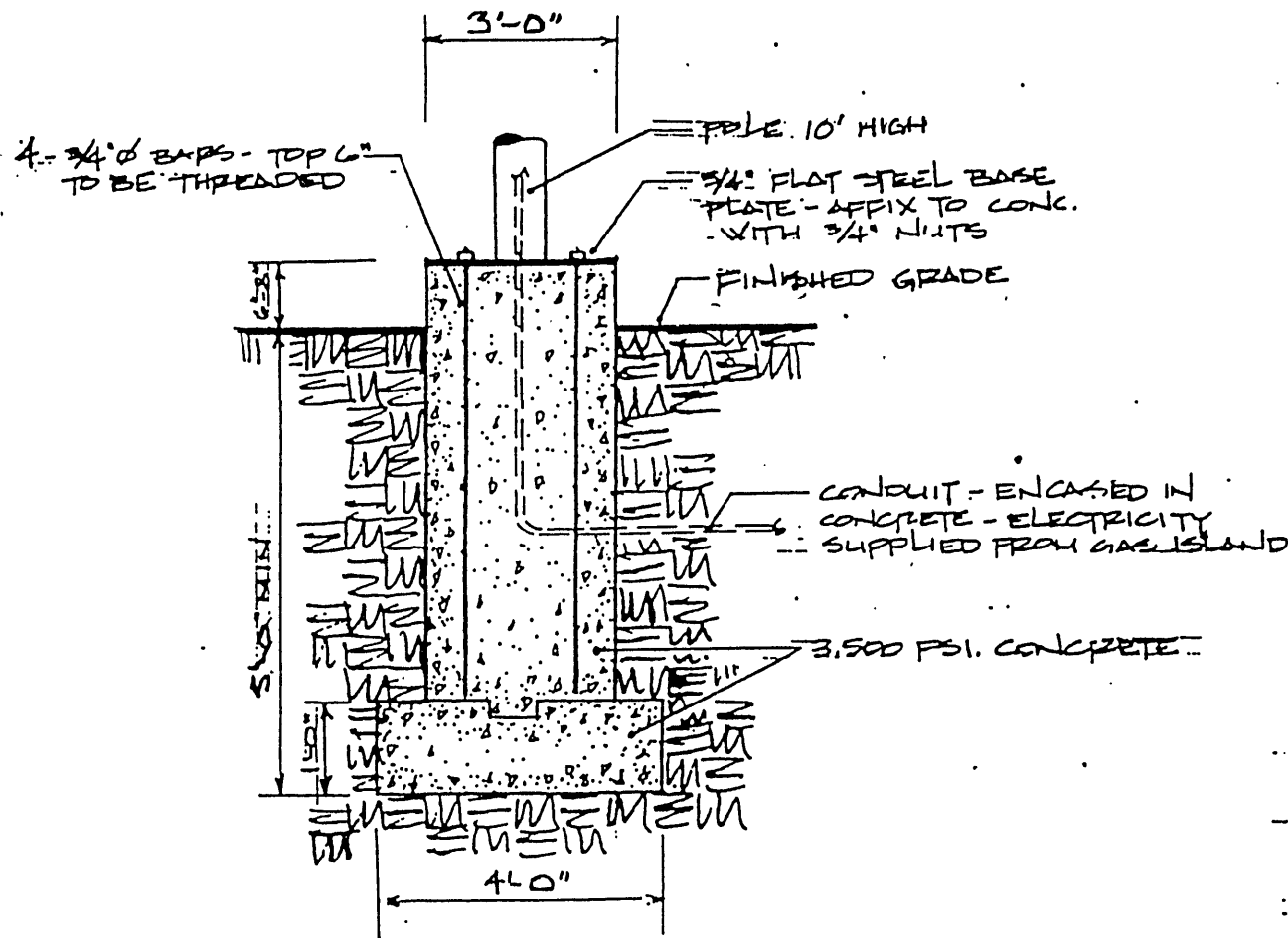
P. O. Box 435, Saratoga Springs, NY 12866

TYPICAL FREESTANDING SIGN

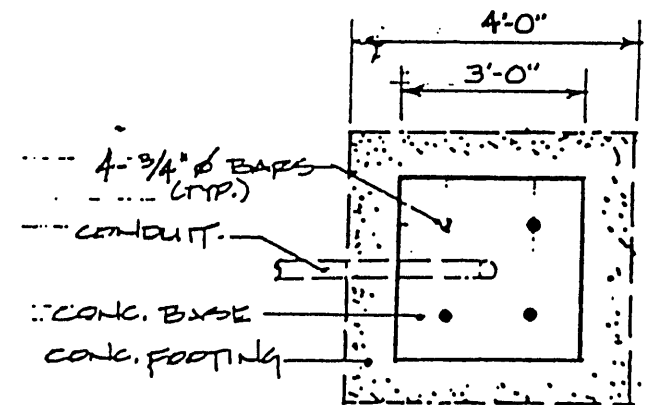
DRAWN BY: G. MEDER *Gm*

SCALE: 1/2" = 1'-0"

DATE: 11-5-90



SECTION



PLAN



P. O. Box 435, Saratoga Springs, NY 12866

Revisions

SIGN BASE DETAIL

DRAWN BY: G. MEDICK

SCALE: N/A

DATE:



- NOTES:**
- 1. Site Is Presently Zoned "C"
- Designated Shopping District.
Tax Map Section 65 Block 2 Lot 42
 - 2. Property Line Information As
Per Map Entitled "Survey Map For
Arthur D. & Julie Stockdale"
By Anthony D. Valdina, L.S.
Dated 28 October 1991 - Job #91-37.
 - 3. Topographic Information and
Existing Site Amenities/Utilities As
Per Map Referenced in Note 1; Further
Information Based on Site Survey Notes
By Stewart's Dated July 1992.
 - 4. Total Site Area = 69,836.95 SF
Building Area = 2,400 SF 3.4%
Paved Area = 15,964± SF 22.9%
Green Space = 51,473± SF 73.7%
Total Lot Size 1.6± Acres
 - 5. Water, Power & Sanitary Sewer
Utilities As Shown On Plan &
Details.
 - 6. Curbing Subject To Approval By
Town Highway Superintendent
Prior To Construction.

ZONING DATA

• OLD TEMPLE HILL ROAD & VAILS GATE HEIGHTS ROAD
TOWN OF NEW WINDSOR, ORANGE COUNTY, NY
• TAX MAP SECTION 65 BLOCK 2 LOT 42
• OWNER: ARTHUR & JULIE STOCKDALE
PO BOX 782
CORNWALL, NY 12518

• APPLICANT &
CONTRACT PURCHASER: STEWART'S ICE CREAM CO. INC.
PO BOX 435 SARATOGA SPRINGS, NY

• ZONE C - DESIGNATED SHOPPING

	REQUIRED	PROVIDED
	RETAIL	GASOLINE B-5
LOT AREA	min 40,000 SF	min 40,000 SF
LOT WIDTH	200 FT	200 FT
FRONT YARD SETBACK	min 60 FT	min 60 FT
SIDE YARD SETBACK	30/70 FT	30/70 FT
REAR YARD SETBACK	30 FT	30 FT
DEVELOPED GREEN/UNDISTURBED		26.3 % (see Note #4) 73.7 %
BUILDING HEIGHT	21.3 FT MAX	21.3 FT MAX
PARKING SPACES:	9 SPACES	n/a
	RETAIL REQUIREMENT = 9 (1350SF RETAIL AREA at 1 per 150SF = 9) REQUIRED = 9 PROVIDED = 12 (10' x 20') + 1 HANDICAP (16' x 18')	13 SPACES
SIGNAGE:		
BUILDING:	32 SF MAX	32 SF (2 @ 16 SF Each)
FREESTANDING:	40 SF MAX	64 SF (2 @ 32 SF Each)
WALL (Island)		28 SF (2 @ 14 SF Each)

PLANTING SCHEDULE:

KEY QUANTITY	BOTANICAL NAME	COMMON NAME	SIZE
AC 3	ACER PLATANOIDES "CRIMSON"	CRIMSON KING MAPLE	2'-2 1/2' cal
BN 2	BETULA NIGRA	HERITAGE BIRCH	2'-2 1/2' cal
GT 3	GLEDTISIA TRIACANTHOS INERMIS "SKYLINE"	SKYLINE HONEYLOCUST	2'-2 1/2' cal
MS 1	MALUS "SUGAR TYME"	"SUGAR TYME" CRABAPPLE	2'-2 1/2' cal
QP 1	QUERCUS PALUSTRIS	PIN OAK	2'-2 1/2' cal
SHRUBS			
EA 6	EUONYMUS ALATUS COMPACTA	BURNING BUSH EUONYMUS	2'-3'
JC 38	JUNIPERUS CHINENSIS "SEA GREEN"	SEA GREEN JUNIPER	2'-3'
JH 65	JUNIPERUS HORIZONTALIS PLUMOSA	ANDORRA COMPACT JUNIPER	2'
SB 37	SPIREA BUMALDA FROEBELI	FROEBELI SPIREA	2'-3'
TC 30	TAXUS CUSPIDATA	SPREADING JAPANESE YEW	2'-3'
VD 18	CORNUS ARGENTEO MARGINATA	VARIEGATED DOGWOOD	2'-3'
CONIFERS			
PN 3	PINUS NIGRA	AUSTRIAN PINE	5'-6'
PE 13	PINUS STROBUS	EASTERN WHITE PINE	5'-6'

JOBSTORE NO. 330

JOB SITE: OLD TEMPLE HILL ROAD

DATE: 11-20-92
SCALE: 1"=20'

NEW WINDSOR SITE #2

DRAWING NO. S-1

Stewart's
WE ARE CLOSER TO YOU
P.O. BOX 435
SARATOGA SPRINGS, N.Y. 12866

SITEPLAN

REVISIONS

DATE	BY	REVISION
11-20-92	JK	1. Initial
12-1-92	JK	2. Curbs, notes
12-2-92	JK	3. U/G lines
12-2-92	JK	4. Notes

